

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JEFFREY J. GRISAMORE,

Appellant

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY and
RANDALL SISK,

Respondents

DOCKET NUMBER WD70988

DATE: January 12, 2010

Appeal From:

Circuit Court of Jackson County, MO
The Honorable William Stephen Nixon, Judge

Appellate Judges:

Division Three: James Edward Welsh, P.J., Mark D. Pfeiffer, and Karen King Mitchell, JJ.

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**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JEFFREY J. GRISAMORE, Appellant, v.
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY and RANDALL
SISK, Respondents.**

WD70988

Jackson County

Before Division Three Judges: Welsh, P.J., Pfeiffer, and Mitchell, JJ.

Jeffrey J. Grisamore appeals the circuit court's grant of summary judgment in favor of State Farm Mutual Automobile Insurance Company and State Farm's claim representative, Randall Sisk, and the dismissal of his claims for negligent misrepresentation and fraudulent misrepresentation against State Farm and Sisk. Grisamore contends that the circuit court erred in dismissing his claims against State Farm and Sisk because the uncontroverted facts in the motion for summary judgment did not establish that State Farm and Sisk were entitled to judgment as a matter of law.

REVERSED AND REMANDED.

Division Three holds:

(1) Grisamore's claims against State Farm and Sisk did not assert a direct action against a liability insurer but instead asserted claims for negligent and fraudulent misrepresentation. Case law and public policy reasons support the right of a third party to maintain an action against an insurance company for negligent and fraudulent misrepresentation. The circuit court, therefore, erred in granting summary judgment for State Farm and Sisk upon the ground that Grisamore cannot assert a direct action against a liability insurer.

(2) Grisamore's claims are not barred by the Unfair Trade Practices Act. Grisamore is not suing State Farm and Sisk for violations of the Unfair Trade Practices Act but is suing for negligent and fraudulent misrepresentation, which are claims existing independent of the Unfair Trade Practices Act. The circuit court, therefore, erred in granting the motion for summary judgment for State Farm and Sisk upon the ground that Grisamore's claims are barred by the Unfair Trade Practices Act.

(3) Sisk may be held personally liable even if he was acting solely as State Farm's employee. The fact that Sisk was acting as an agent for State Farm does not change the fact that Sisk may have made misrepresentations to Grisamore and that Sisk may be liable as a result.

Opinion by: James Edward Welsh, Judge

January 12, 2010

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